

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 19-20251

v.

Hon. George Caram Steeh

XAVIER ROBINSON-KING,

Defendant.

_____ /

ORDER DENYING MOTION FOR
COMPASSIONATE RELEASE (ECF No. 42)

Xavier Robinson-King moves for compassionate release from prison, based upon the COVID-19 pandemic. Robinson-King alleges that he has contracted the virus, there is an outbreak at his facility, and conditions are unsanitary. The government contends that the court may not consider Robinson-King's claim because he has failed to exhaust his administrative remedies.

Ordinarily, a district court "may not modify a term of imprisonment once it has been imposed." 18 U.S.C. § 3582(c). The statute provides for a

limited exception, known as “compassionate release,” which is governed by 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018.

Although compassionate release motions were historically initiated only by the Bureau of Prisons, the First Step Act allows prisoners to file such motions on their own behalf, after exhausting their administrative remedies.

United States v. Ruffin, 978 F.3d 1000, 1004 (6th Cir. 2020).

Before filing a compassionate release motion, a defendant must fully exhaust “all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf,” or wait “30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A). This exhaustion requirement is “a mandatory condition” that “must be enforced” when properly raised by the government. *United States v. Alam*, 960 F.3d 831, 833-34 (6th Cir. 2020).

Robinson-King does not allege that he has exhausted his administrative remedies. Although the court appreciates his concerns about his health and the conditions at his facility, the statute requires that the Bureau of Prisons first has an opportunity to review and act on his request before he seeks relief in court.

Accordingly, IT IS HEREBY ORDERED that Robinson-King's motion is DENIED WITHOUT PREJUDICE.

Dated: February 15, 2022

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on February 15, 2022, by electronic and/or ordinary mail and also on Xavier Robinson-King #56782-039, FCI Milan, Federal Correctional Institution, P.O. Box 1000, Milan, MI 48160.

s/Brianna Sauve
Deputy Clerk